

EXHIBIT 13

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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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3 In Re: Methyl Tertiary Master File
Butyl Ether ("MTBE") No. 1:00-1898
4 Products Liability MDL 1358
Litigation (SAS): M21-88

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6 This Document Relates To:

7
8 New Jersey Department of Environmental
Protection, et al., v. Atlantic Richfield
Co., et al.
9 No. 08 Civ. 00312

10 - - -
11 August 2, 2012
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13 Oral Rule 30(b)(6)
deposition of Plaintiff New Jersey
14 Department of Environmental Protection,
through its representative GARY S.
15 LIPSIUS, REGARDING HP DELTA, taken
pursuant to notice, was held at the
16 offices of the STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
17 401 East State Street, Trenton, New
Jersey, beginning at 9:56 a.m., on the
18 above date, before Kimberly A. Cahill, a
Federally Approved Registered Merit
19 Reporter and Notary Public for the State
of New Jersey.

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deps@golkow.com
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1 APPEARANCES:

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4 A. Mr. Corcory retired.
5 Q. Is there someone else that
6 you could have spoken to in his stead?
7 MR. SHANNON: Calls for
8 speculation.
9 THE WITNESS: Actually, I'd
10 like to correct testimony that I
11 made earlier, because I just
12 remembered someone I did speak to.
13 MS. HANE BUTT: Okay.
14 THE WITNESS: Bradi Montozzi
15 -- her name at the time I believe
16 was Sklar. It may have been
17 Montozzi on some of the documents
18 -- but she worked for Mr. Corcory
19 and I had a brief discussion with
20 her, which I just forgot about.
21 BY MS. HANE BUTT:
22 Q. What did you talk to her
23 about?
24 A. I mentioned to her that I

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1 was being deposed for this HP Delta site
2 and that she had been -- that I mentioned
3 that I had seen her name listed on some
4 of the enforcement documents at the time
5 she worked for Mr. Corcory.
6 And I asked her what she
7 remembered about the -- the site,
8 enforcement-wise.
9 Q. And what did she have to say
10 in that regard?
11 A. She told me that she really
12 didn't remember much about it at all, and
13 it wasn't a very long discussion. She
14 just said, you know, I barely remember
15 the case. I remember there was some --
16 some potable wells that were
17 contaminated, but she said she didn't
18 really have much detail to give me.
19 Q. Is it the DEP's contention
20 that releases from the HP Delta station
21 caused the MTBE impacts to the potable
22 wells along Lancaster Road?
23 MR. SHANNON: Calls for
24 expert opinion. It's beyond the

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1 scope for which this witness is
2 being produced.
3 THE WITNESS: Could you
4 clarify the question, the NJDEP's
5 position?
6 BY MS. HANE BUTT:
7 Q. Well, you're here today as a
8 representative of the DEP.
9 A. Right.
10 Q. And as such, you have an
11 obligation to answer questions based on
12 information known to or available to DEP,
13 and I'm just wondering if DEP has a
14 position that the HP Delta station is

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15 responsible for the MTBE impacts in the
16 potable wells along Lancaster Road.
17 MR. SHANNON: Calls for
18 expert opinion and it's beyond the
19 scope for which this witness is
20 being produced.
21 THE WITNESS: I believe it
22 would be NJDEP's position that the
23 contamination -- the MTBE
24 contamination and TBA

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1 contamination found at the HP
2 Delta site is in some part
3 responsible for the potable well
4 contamination associated with the
5 Lancaster Road site. And that
6 would be shown by the directive
7 and in the inclusion of a
8 Lancaster Road well issue in the
9 HP Delta directive.

10 BY MS. HANE BUTT:
11 Q. And what is the basis for
12 concluding that the HP Delta site is in
13 some part responsible for the Lancaster
14 Road contamination?

15 MR. SHANNON: Calls for
16 expert opinion. It's beyond the
17 scope for which this witness is
18 being produced. I think that
19 question is --

20 MS. HANE BUTT: No coaching.
21 You can just state your objection
22 -- I'm just going to tell you, as
23 a matter of courtesy, because
24 you're new to the case and you

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1 have not met Her Honor, Judge
2 Scheindlin, but she does not take
3 very kindly to coaching witnesses
4 on the record.

5 All you're allowed to do is
6 state the basis for your
7 objection. Anything else is
8 improper.

9 And if I have to, I'll get
10 Special Master Warner on the
11 phone. He, in fact, has invited
12 as much, so --

13 MR. SHANNON: That's what I
14 was in the process of doing,
15 counsel, and if I may finish, it's
16 beyond the scope for which this
17 witness is produced.

18 I think that question is
19 most appropriately addressed to
20 Mr. Akshay Parikh, who will be
21 produced later today regarding the
22 issues related to the Lancaster
23 Road wells.

24 MR. HANE BUTT: Are you able

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1 contaminants that were found in
2 the potable wells.
3 BY MS. HANE BUTT:
4 Q. Anything else?
5 MR. SHANNON: Same
6 objection.
7 THE WITNESS: As I mentioned
8 before, I think the fact that
9 MW-01 contaminant levels found
10 when the system was shut off,
11 which is in the direction of the
12 potable wells, also would lend one
13 to think that -- you know, that
14 the northwest direction of the
15 site, notwithstanding the
16 groundwater -- deep groundwater
17 flow levels, it still seemed to be
18 a potential source of the potable
19 well contamination.
20 BY MS. HANE BUTT:
21 Q. What degree of confidence do
22 you attach to that conclusion that HP
23 Delta is a source of impacts to the
24 Lancaster Road wells?

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1 MR. SHANNON: It's vague and
2 ambiguous as phrased, calls for
3 expert opinion.
4 MS. HANE BUTT: You just said
5 potential, so I'm trying to
6 explore that.
7 MR. SHANNON: Same
8 objections; beyond the scope of
9 the deposition -- or beyond the
10 scope for which this witness is
11 being produced.
12 THE WITNESS: Again, I think
13 Mr. Parikh would have some good
14 insight into this question, but
15 I'd be happy to answer the
16 question, if I may.
17 MR. SHANNON: Go ahead.
18 THE WITNESS: Okay.
19 I would say it's -- looking
20 at the total history of the case
21 and the contaminants and the
22 proximity, that it's a -- the HP
23 Delta site is a likely source.
24 So you asked me to define

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1 the probability, I would say
2 likely. Likely doesn't mean for
3 certain, but it's reasonable to
4 assume that there has been a major
5 component coming from the HP Delta
6 site.
7 BY MS. HANE BUTT:
8 Q. Aside from Mr. Corcoran, is
9 there anyone else that you would have